



**TEXAS ETHICS COMMISSION MEETING**  
**Morning Meeting Minutes**  
October 29, 2014, 10:26 a.m.  
Capitol Extension, Room E1.014  
Austin, Texas 78701



**COMMISSIONERS PRESENT:** Jim Clancy, Chair; Paul W. Hobby, Vice Chair; Hugh C. Akin, Wilhelmina Delco, Tom Harrison, Bob Long, Tom Ramsay, and Chase Untermeyer.

**COMMISSIONERS NOT PRESENT:** None.

**STAFF PRESENT:** Natalia L. Ashley, Amy Barden, Margie Castellanos, Robbie Douglas, Michelle Griffin, Jessie Haug, Jessica Hurtado, Becky Levy, Bobby Mannas, Mike McElhaney, John Moore, Ian M. Steusloff, and Jim Tinley.

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**MINUTES**

This meeting was recorded. These minutes are a summary record of the Commission's actions at the meeting. For a detailed record of discussions and statements made by persons speaking at the meeting, please consult the audio recordings on file at the Commission's office.

**Agenda Item 1: Call to order; roll call.**

The meeting was called to order by Chair Clancy. Natalia Luna Ashley, Executive Director, called the roll. All Commissioners were present.

**Agenda Item 2: Communication to the Commission from the public.**

Joseph M. Nixon, Attorney, representing Empower Texans, Inc. spoke before the Commission.

**Agenda Item 3: Approve minutes for the following meetings:**

- Formal Hearing (John Gordon, Respondent, Sworn Complaint Nos. SC-3100246 and SC-31110224) – August 20, 2014;
- Executive session (Discussion of pending lawsuits) – August 20, 2014;
- Workshop on New Electronic Filing System – August 21, 2014;
- AM public meeting – August 21, 2014; and
- PM public meeting – August 21, 2014.

Motion by Commissioner Delco to approve the meeting minutes listed under agenda item 3; second by Commissioner Long. **Motion passed by a vote of eight ayes.**

**Agenda Item 4: Staff report on the conduct that formed the basis for the conviction of former Virginia Governor Bob McDonnell and Texas Statutes, Commission Rules and Advisory Opinions on such conduct.**

Ian M. Steusloff, Assistant General Counsel, briefed the Commission on this agenda item. Chair Clancy and Vice Chair Hobby responded with questions and comments.

**Agenda Item 5: Staff presentation on Texas Statutes, Commission Rules, and Advisory Opinions on whether elected and appointed officials may accept food, transportation, lodging, entertainment, and gifts from lobbyists, contributors, or corporations.**

Ian M. Steusloff, Assistant General Counsel, briefed the Commission on this agenda item. Chair Clancy and Vice Chair Hobby responded with questions and comments.

**Agenda Item 6: Discussion of Opinion Request AOR-588: Whether an elected member of a board of a state agency in the executive branch may accept tuition, food, transportation, and lodging provided in connection with a seminar that is relevant to the member's official duties and for which the member does not provide any services.**

Commissioner Untermeyer, Chair of the subcommittee appointed by the chair to review this advisory opinion request, briefed the Commission on this agenda item. Natalia Luna Ashley, Executive Director, added further explanation of the draft opinion. Motion by Commissioner Untermeyer to adopt AOR-588; second by Commissioner Delco. Motion by Commissioner Untermeyer to reconsider the motion; second by Commissioner Delco. Jack Gullahorn, Attorney, representing himself and the Professional Advocacy Association of Texas, spoke before the Commission. Chair Clancy responded with questions. Commissioners Untermeyer and Harrison, and Natalia Luna Ashley, Executive Director, responded with comments. Motion by Commissioner Untermeyer to adopt AOR-588; second by Commissioner Delco. **Motion passed by a vote of eight ayes.**

**Agenda Item 7: Discussion of Opinion Request AOR-589: Whether a specific-purpose committee that is established by and for the purpose of supporting and assisting a person as both a candidate and an officeholder may use political contributions to purchase tickets to entertainment events for the person and the person's spouse and dependent children to attend and engage in campaign or officeholder activities.**

Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Chair Clancy, Commissioner Untermeyer, Vice Chair Hobby, and Commissioner Harrison responded with comments. Gardner Pate, Attorney representing himself, spoke before the Commission. Chair Clancy appointed a subcommittee consisting of Commissioners Untermeyer (Chair), Long, Harrison, and Akin to review the matter and report back to the full Commission at the next meeting.

**Agenda Item 8: Discussion of Opinion Request AOR-590: Whether an employee of a member of the Texas Legislature may, at the direction of the member and as a regular part of the employee's job duties, drive the member between the member's Austin residence and the Capitol and drive the member for personal appointments and errands.**

Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Chair Clancy, Vice Chair Hobby, and Commissioners Untermeyer, Delco, Long, Harrison, and Ramsay responded with comments. Donna Davidson, Attorney representing herself, spoke before the Commission. After no further discussion, Chair Clancy stated that the Commission was not yet at the drafting stage for this opinion.

**Agenda Item 9: Possible action on identification of statutory recommendations, rules or advisory opinions necessary to provide fair and predictable guidance regarding whether elected and appointed officials may accept food, transportation, lodging, entertainment, and gifts from lobbyists, corporations, and other persons.**

Chair Clancy stated the Commission just discussed three advisory opinion requests that addressed the boundary between personal use and the use of official funds or official employees, and he wanted the Commission to have a chance to discuss whether there should be any rulemaking or other statutory change recommendations. He stated that in his opinion the items had been addressed appropriately. There was no further discussion on this agenda item.

**Agenda Item 10: Comments by Commissioners.**

Commissioners Untermeyer, Ramsay, and Harrison responded with comments.

**Agenda Item 11: Comments by the Public.**

None.

**Agenda Item 12: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of Texas Ethics Commission Rules § 20.1(20) construing the definition of political committee so that grass roots participants that do not have as a principal purpose accepting political contributions or making political expenditures are not subject to disclosure requirements.**

Chair Clancy introduced this agenda item. David Keating, President, Center for Competitive Politics, Alexandria, VA, spoke before the Commission. Chair Clancy, Vice Chair Hobby, and Commissioners Ramsay and Untermeyer responded with comments and questions. Joseph M. Nixon, Attorney representing Empower Texans, Inc., spoke before the Commission. Chair Clancy, Vice Chair Hobby, and Commissioner Ramsay responded with questions and comments. Steve Bresnen, Attorney representing himself, spoke before the Commission. Joe Pojman, Executive Director, Texas Alliance for Life, Inc., spoke before the Commission. Commissioner Untermeyer responded with comments and questions. Chair Clancy responded to the speakers with comments. Commissioner Ramsay responded with questions.

**Chair Clancy announced that the Commission would recess for lunch until 1:45 p.m. and stated that discussion would continue on Agenda Item 12 when the Commission reconvened.**

**Reconvened at 1:54 p.m. Chair Clancy announced that discussion on Agenda Item 12 would continue, and if the Commission is delayed for the 2:00 p.m. Agenda beyond 2:30 p.m., the Commission will recess to take up that Agenda.**

**Agenda Item 12: (Continued)**

Chair Clancy commented on Agenda Item 12. Commissioner Harrison and Vice Chair Hobby responded with comments. Motion by Vice Chair Hobby to adopt the amendment to Ethics Commission Rules § 20.1 adding section (20) to define “principal purpose”; second by Commissioner Long. **Motion passed by a vote of eight ayes.**

**Agenda Item 13: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of an amendment to Texas Ethics Commission Rules § 22.6 to define the phrase “acting in concert” for purposes of Election Code § 254.261 relating to direct campaign expenditures exceeding \$100.**

Motion by Commissioner Untermeyer to adopt the amendment to Ethics Commission Rules § 22.6 to define “acting in concert”; second by Commissioner Harrison. **Motion passed by a vote of eight ayes.**

**Agenda Item 14: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of an amendment to Texas Ethics Commission Rules §§ 20.327 and 20.427 relating to runoff reports filed by political committees.**

Motion by Commissioner Delco to adopt the amendment to Ethics Commission Rules §§ 20.327 and 20.427 relating to runoff reports filed by political committees; second by Commissioner Untermeyer. **Motion passed by a vote of eight ayes.**

**Agenda Item 15: Public discussion and possible action on the proposal and publication in the Texas Register of an amendment to Texas Ethics Commission Rules § 50.1 (Legislative Per Diem) relating to the legislative per diem required to be set under Article III, Section 24a, of the Texas Constitution.**

Chair Clancy described the amendment to this rule and gave a brief history of the per diem rate in past years. Vice Chair Hobby responded with comments. Natalia Luna Ashley, Executive Director, responded with clarification. Commissioner Ramsay, Chair Clancy, Commissioners Long and Delco, Vice Chair Hobby, and Commissioners Harrison, Long, and Untermeyer responded with comments. Motion by Commissioner Long to publish for public comment the proposed amendment to Ethics Commission Rules § 50.1 relating to legislative per diem as outlined in Exhibit B; second by Commissioner Delco. **Motion passed by a vote of six ayes. Vice Chair Hobby and Commissioner Untermeyer voted no.**

**Agenda Item 16: Public discussion and possible action on the proposal and publication in the Texas Register of an amendment to Texas Ethics Commission Rules § 6.1 (Definitions) to add a definition of the phrase “first responder.”**

Chair Clancy briefed the Commission on this proposed rule. Motion by Commissioner Harrison to publish for public comment the amendment to Ethics Commission Rules § 6.1 to define “first responder”; second by Commissioner Delco. **Motion passed by a vote of eight ayes.**

**Agenda Item 17: Public discussion and possible action on the proposal and publication in the Texas Register of an amendment to Texas Ethics Commission Rules § 18.23 (Administrative Waiver of Fine).**

Chair Clancy briefed the Commission on this proposed rule. Motion by Commissioner Untermeyer to publish for public comment an amendment to Ethics Commission Rules § 18.23; second by Commissioner Akin. **Motion passed by a vote of eight ayes.**

**Agenda Item 18: Public discussion and possible action on the proposal and publication in the Texas Register of new Texas Ethics Commission Rules §§ 18.24 (General Guidelines for Other Administrative Waiver or Reduction of Fine), 18.25 (Administrative Waiver or Reduction of Fine: Report Type I), and 18.26 (Administrative Waiver or Reduction of Fine: Report Type II).**

Chair Clancy briefed the Commission on these proposed rules. Commissioner Long responded with comments. Commissioner Long moved to publish for public comment new Ethics Commission Rules §§ 18.24, 18.25, and 18.26 relating to administrative waivers or reductions of fines; second by Commissioner Harrison. **Motion passed by a vote of eight ayes.**

**Agenda Item 19: Public discussion and possible action on the proposal and publication in the Texas Register of an amendment to Texas Ethics Commission Rules § 34.1 (Definitions) to add a definition of the term “influence.”**

Chair Clancy tabled this agenda item.

**Agenda Item 20: Public discussion and possible action on procedures for processing and resolving sworn complaints appropriate for resolution with an Assurance of Voluntary Compliance.**

John Moore, Director of Enforcement, briefed the Commission on this agenda item. Vice Chair Hobby and Chair Clancy responded with comments.

**Chair Clancy announced that the 9:30 a.m. Agenda would recess so that the 2:00 p.m. Agenda could be taken up. Recessed at 2:30 p.m.**

**Reconvened at 2:47 p.m.**

**Agenda Item 21: Report from Subcommittee of Commissioners to consider recommendations for statutory changes to the 84<sup>th</sup> Legislature as required by § 571.073 of the Government Code.**

Chair Clancy introduced this agenda item. Vice Chair Hobby, Chair of the subcommittee, gave a report from the subcommittee and described each proposed recommendation including one deletion and one addition to the list. Commissioner Untermeyer responded with questions. Natalia Luna Ashley, Executive Director, responded to various Commissioners and explained various recommendations. Chair Clancy and Commissioners Long, Untermeyer, Harrison, Akin, and Ramsay responded with comments. Ms. Ashley will draft the recommendations based on Commissioners' input and will bring the list of recommendations to the next Commission meeting for a vote.

**Agenda Item 22: Discussion and possible action on hosting the Council on Governmental Ethics Laws 2016 Conference.**

Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Chair Clancy, Vice Chair Hobby, and Commissioners Long and Untermeyer responded with questions and comments.

**Agenda Item 23: Report from Nominating Committee of Commissioners for the positions of Chair and Vice Chair of the Texas Ethics Commission.**

Commissioner Akin, Chair of the nominating committee, made comments. Commissioner Akin moved to approve the nominating committee's proposal to nominate Paul Hobby of Houston to become Chair effective November 20, 2014, and to nominate Chase Untermeyer of Houston to become Vice Chair effective November 20, 2014; second by Commissioner Ramsay. Motion passed unanimously.

**Agenda Item 24: Comments by the Executive Director.**

Natalia Luna Ashley, Executive Director, informed the Commissioners that the symposium originally scheduled in Denton on November 14, 2014, had been canceled, and that staff was close to finalizing a location in San Antonio for a symposium to be held in January 2015.

Ms. Ashley stated that on the educational front staff had participated in two conferences and also did training at an agency. She stated that some staff members will attend the upcoming 2014 COGEL conference and that there is a Legislative Boot Camp coming up in which some staff will participate.

Ms. Ashley informed the Commission that for the most recent 30-day and 8-day campaign finance filing deadlines, 94% of reports due were filed timely.

Ms. Ashley reported that currently 251 complaints have been filed for calendar year 2014, and that is 17 more than all of last year.

Finally, Ms. Ashley reminded the Commission that the legislative moratorium on contributions starts soon and the last day to accept contributions before the 2015 legislative session is December 13, 2014.

**Agenda Item 25: Comments by the Commissioners.**

Chair Clancy made comments about his time on the Commission. Vice Chair Hobby and Commissioner Long responded with comments.

**Agenda Item 26: Adjourn.**

Motion by Commissioner Delco to adjourn; second by Commissioner Ramsay. **Motion passed by unanimous consent.**